

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MELVIN JONES,)
Plaintiff)
)
v.) C.A. No. 10-CV-30244-MAP
)
JEFFREY M. ASHER, ET AL.,)
Defendants)

MEMORANDUM AND ORDER RE:
REPORT AND RECOMMENDATION WITH REGARD TO
DEFENDANTS' MOTION TO DISMISS
(Dkt. Nos. 33 & 41)

September 30, 2011

PONSOR, D.J.

In this action pursuant to 42 U.S.C. § 1983, Plaintiff claims that several police officers beat him and filed false charges against him on account of his race. Two of the Defendants, Hitas and Manley, moved to dismiss the case.

See Dkt. 33. The motion was referred to Magistrate Judge Kenneth P. Neiman for a report and recommendation.

On March 31, 2011, Judge Neiman issued his Report and Recommendation, to the effect that Defendants' motion should be allowed.

Plaintiff subsequently objected to the Report and Recommendation. See Dkt. No. 43. However, Plaintiff also filed a motion to amend his complaint (Dkt. No. 47), which was allowed on June 2, 2011. On June 6, 2011 Plaintiff filed his amended complaint and on June 16, 2011, Defendants

Hitas and Manley again filed a Motion to Dismiss. See Dkt. Nos. 51 & 53. This motion is currently set for a hearing before the undersigned on October 20, 2011.

In order to clarify the docket, the court hereby, upon de novo review, ADOPTS Magistrate Judge Neiman's Report and Recommendation (Dkt. No. 41). Based upon this, the court hereby ALLOWS the first Motion to Dismiss of Defendant Hitas and Manley (Dkt. No. 33).

This ruling will not affect the claims against these two Defendants as contained in the amended complaint. Their Motion to Dismiss the amended complaint will be heard on October 20 and the court will issue a ruling promptly thereafter. The effect of the ruling contained in this memorandum is simply to clarify the docket, to the effect that the original Motion to Dismiss (Dkt. No. 33) has been allowed, with further consideration of the claims against these two Defendants to take place in connection with the amended complaint.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge